

## SCHEDULES

### SCHEDULE 11

#### TRANSITIONAL PROVISIONS

#### PART II

##### SPECIFIC PROVISIONS: REPLICATION OF OLD TRANSITIONAL PROVISIONS

##### *Sections 37, 41, 46 and 79 and Schedules 2, 3 and 6: consent requirements*

- 4 (1) In relation to an offence committed before 1st October 1997—
- (a) section 37 of this Act shall have effect as if at the end of subsection (10) (but not as part of paragraph (c)) there were added the words “and the court shall not make the order unless he expresses his willingness to comply with its requirements”;
  - (b) section 41 of this Act shall have effect as if at the end of subsection (7) (but not as part of paragraph (c)) there were added the words “and the court shall not make the order unless he expresses his willingness to comply with its requirements”;
  - (c) section 46(4) of this Act shall have effect as if after the word “unless” there were inserted “the offender consents and”;
  - (d) section 79(3) of this Act shall have effect as if for the words from “he fails to” onwards there were substituted “he refuses to give his consent to a community sentence which is proposed by the court and requires that consent”; and
  - (e) Schedule 2 to this Act shall have effect as if there were omitted from each of paragraphs 5(4) and 6(5) paragraph (b) and the word “and” immediately preceding it.
- (2) In relation to an offence committed before 1st October 1997, Schedule 3 to this Act shall have effect as if—
- (a) for paragraph (b) of each of paragraphs 4(2) and 5(2) there were substituted the following paragraph—
    - “(b) may assume, in the case of an offender who has wilfully and persistently failed to comply with those requirements, that he has refused to give his consent to a community sentence which has been proposed by the court and requires that consent.”;
  - (b) paragraph 19(2)(b)(i) were omitted; and
  - (c) at the end of paragraph 20(2)(b) there were inserted “, being treatment of a kind to which he could be required to submit in pursuance of a probation or combination order”.

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*Status: This is the original version (as it was originally enacted).*

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(3) In relation to an offence committed before 1st October 1997, paragraph 3(4) of Schedule 6 to this Act shall have effect as if for paragraph (c) there were substituted the following paragraph—

“(c) the offender or, if he is a child, his parent or guardian, consents to their inclusion.”

*Section 37: minimum age for curfew order*

5 In relation to an offence committed before 1st January 1998, section 37 of this Act shall have effect as if—

- (a) in subsection (1), after the word “person” there were inserted “aged 16 or over”; and
- (b) subsections (4) and (9) were omitted.

*Custodial sentences for young offenders: section 98 and re-sentencing powers*

6 In relation to an offender sentenced to detention in a young offender institution before 1st April 2000, section 98(2) of this Act shall have effect as if at the end there were inserted “, but if he is under 18 at the time of the direction, only for a temporary purpose”.

7 A court to which it falls after the commencement of this Act to determine for the purposes of any enactment how a previous court could or might have dealt with an offender shall in the case of an offender aged under 18 make that determination—

- (a) as if sections 100 to 107 of this Act (detention and training orders) and section 96 of this Act (detention in a young offender institution available only if offender is at least 18) had been in force; and
- (b) as if sections 1 to 4 of the Criminal Justice and Public Order Act 1994 (secure training orders, repealed by the Crime and Disorder Act 1998) had not been in force.

*Sections 143, 147, 148 and 150: miscellaneous transitional provisions*

8 The following provisions of this Act, namely—

- (a) subsections (6) and (7) of section 143, and
- (b) subsections (2) and (4) of section 147,

do not apply in relation to an offence committed before 1st July 1992.

9 In relation to an offence into which a criminal investigation began before 1st April 1997, section 148 of this Act shall have effect as if for paragraph (b) of subsection (6) there were substituted the following paragraph—

“(b) the depositions taken at any committal proceedings and any written statements or admissions used as evidence in those proceedings.”

10 In relation to an offence committed before 3rd February 1995, section 150 of this Act shall have effect as if there were omitted from subsection (2) the words from “and where the court” onwards.